Filing Receipt

Received - 2021-10-07 02:26:57 PM
Control Number - 51415
ItemNumber - 673

SOAH DOCKET NO. 473-21-0538
DOCKET NO. 51415

APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR AUTHORITY TO CHANGE RATES	**§ § §**	**BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

TEXAS COTTON GINNERS' ASSOCIATION'S EXCEPTIONS TO THE PROPOSAL FOR DECISION

Dated: October 7, 2021

BRADY & HAMILTON, LLP

Zachary S. Brady
State Bar No. 24012320
zach@bhlawgroup.com
Laura A. W. Pratt
State Bar No. 24072287
laura@bhlawgroup.com
1602 13th Street
Lubbock, Texas 79401
Telephone: (806) 771-1850
Facsimile: (806) 771-3750

ATTORNEYS FOR INTERVENOR
TEXAS COTTON GINNERS' ASSOCIATION

TABLE OF CONTENTS

Summary of Exceptions 3

IX. B. 5. TCGA's Class Allocation Issues 5

Exception to Cost Allocation Issues 5

Exception to Rate Increase 8

XV. A. Findings of Fact 10

XV. B. Conclusions of Law 10

Conclusion 10

SOAH DOCKET NO. 473-21-0538
DOCKET NO. 51415

APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR AUTHORITY TO CHANGE RATES	§ § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS COTTON GINNERS' ASSOCIATION'S EXCEPTIONS TO THE PROPOSAL FOR DECISION

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE AND/OR COMMISSIONERS:

COMES NOW, Texas Cotton Ginners' Association (TCGA) and timely files its Exceptions (Exceptions) to the Proposal for Decision (PFD) issued by the administrative law judges (ALJs) on August 27, 2021. In an effort to make efficient use of the Public Utility Commission's (PUC) and counsels' time, TCGA has briefed its limited exceptions.[1]

Summary of Exceptions

In large part, the TCGA supports the PFD issued by the ALJs. The ALJs sat through nearly two weeks of virtual testimony and sifted through literally reams of evidence in arriving at their decision, which is generally well-reasoned and well-supported.

TCGA does take exception to the PFD's failure to correct two specific errors. First, TCGA takes exception to the ALJs' recommendation that the PUC undertake no additional action in this docket to address the Cotton Gin class's unique situation, but rather, address such concerns in the next rate case.[2] The ALJs claim that TCGA has not submitted an alternative class allocation (or rate design) proposal that the PUC could consider for adoption in this docket that would address TCGA's situation.[3] However, an extensive allocation proposal is not entirely necessary. The

[1] Headings not briefed are omitted, but the briefing outline numbering is retained.
[2] PFD at 287.
[3] *Id.*

evidence supports an adjustment to the allocator for secondary lines investment by eliminating (moving to zero) the Cotton Gin class demands from the allocation of secondary distribution investment. With this adjustment, a substantial amount of the costs improperly allocated to the Cotton Gin class could be corrected.

Secondly, TCGA takes exception to the number running calculations relative to the revenue increase distribution as shown on Schedule C.[4] In these calculations, the 43.26% base rate increase cap was not reduced consistent with the percentage reduction in the base rate revenue increase proposed in the PFD as compared to Southwestern Electric Power Company's (SWEPCO) original or rebuttal request for base rate increase.

As discussed more fully below, TCGA respectfully requests that the PUC overrule that ALJs' recommendation to essentially "do nothing" regarding the Cotton Gin class. There are cost allocations and rate design proposals already in consideration for this docket that TCGA would support, provided, however, the cost allocation analysis adopted should not inequitably or unreasonably allocate costs to the Cotton Gin class that the class does not cause. Consequently, if these costs are properly allocated, then by using SWEPCO's revenue distribution approach and the proper [uninflated] base rate increase, the 1.5 times the system average base rate increase cap should result in a maximum base rate increase of 24.32%[5], ***not*** 43.26%. As such, TCGA respectfully requests that the PUC establish a maximum base rate increase of not more than 24.32% for the Cotton Gin class or the amount of the base rate increase necessary for the Cotton Gin class to produce the system average rate of return of 6.79%.

---

[4] PFD at Schedule C.

[5] Based on Schedule C attached to the PFD, the "PFD Cost Based Gross Bill Change" for the Total Firm Retail (also referred to as the "Proposed Base Rate Increase" herein) is $56,173,905. The "Present Base Revenue" for the Total Firm Retail is $346,469,372. Using these values, this represents a 16.2132% average base rate increase or "Cost-Based % Change", and 1.5 times this average base rate increase would be 24.32%.

IX. B. 5. TCGA's Class Allocation Issues

Exception to Cost Allocation Issues

TCGA takes exception to the ALJs' recommendation that the PUC undertake no additional action in this docket to address the Cotton Gin class's unique situation, but rather requests that the PUC direct SWEPCO to address such concerns in the next rate case.[6] The ALJs claim that TCGA has not submitted an alternative class allocation (or rate design) proposal that the PUC could consider for adoption in this docket.[7] However, the evidence supports simple adjustments to the Cotton Gin class cost allocation that would eliminate a substantial amount of the improper costs allocated to this class.

TCGA's primary issue in this case is that it opposes SWEPCO's proposed class allocation and class cost of service study, arguing that it "inequitably and unreasonably allocates costs to the Cotton Gin class that the class did not cause."[8] After weighing TCGA's arguments and the evidence, the ALJs concluded that TCGA "makes a number of valid points as to how it is markedly different from SWEPCO's other commercial classes located in northeast Texas."[9] Some of these differences as supported by the evidence include:

- The TCGA members are located in the Texas Panhandle, and they are far removed from SWEPCO's primary service territory in northeast Texas.[10]
- TCGA is not served by underground conduit, or primarily from secondary lines.[11]
- TCGA's vegetation management requirements are much less than those required by SWEPCO's northeast Texas customers.[12]

[6] PFD at 287.
[7] *Id.*
[8] PFD at 282; *see also* TCGA Initial Brief at 14-20.
[9] PFD at 286.
[10] *Id.; see also* TCGA Ex. 1— Evans Cross Rebuttal at TCGA 0014:5-0018:22.
[11] PFD at 287.
[12] *Id.*; *see e.g* TCGA Ex. 4 at TCGA 0031-33; TCGA Ex. 7 at TCGA 0040; TCGA Ex. 9 at TCGA 0042-43.

These considerations and others suggest to the ALJs that SWEPCO's Class Cost of Service Study (CCOSS) or rate design, may not be applied properly to the Cotton Gin class. The ALJs go so far as specifically rejecting SWEPCO's assertion that TCGA is essentially requesting a "decision for 'system-wide rates.'[13]

However, despite this analysis, the ALJs ultimately state:

> But neither has TCGA submitted an alternative class allocation (or rate design) proposal that the Commission could consider for adoption in this docket. That is, the ALJs are not presented with an alternative to SWEPCO's essentially standard class cost allocation methods that could address TCGA's situation. The ALJs, therefore, do not recommend that the Commission take additional action in this docket to address the Cotton Gin class.[14]

This statement directly contradicts ALJs' earlier determination, "The evidence shows that TCGA is not served by underground conduit, or primarily from secondary lines, and its vegetation management requirements are much less than those required by SWEPCO's northeast Texas customers." It also contradicts Findings of Fact #251 which states,

> 251. The Cotton Gin class, with its customers located in the Texas Panhandle, is markedly different from SWEPCO's other commercial classes located in northeast Texas because, among other things, they operate primarily on a seasonal basis in the winter months, their vegetation management requirements are different than those located in northeast Texas, and they typically are served directly from line transformers, rather than from secondary lines.[15]

Despite the ALJs' conclusion, TCGA does not need to submit an extensive allocation proposal to correct this internal inconsistency. The evidence already supports two simple

---

[13] PFD at 287, fn 1485.
[14] PFD at 287.
[15] PFD at 365.

adjustments to specific class allocators that would greatly reduce the inequitable or unreasonable costs allocated to the Cotton Gin class that the class does not cause.

The adjustment to the allocator for underground primary and secondary facilities would simply be to eliminate the demands for distribution underground investment. SWEPCO's class allocators for those investments are: DEM366DAP, DEM366DAS, DEM367DAP, and DEM367DAS.[16] The only required change would be to zero out the demands for the Cotton Gin class (*i.e.*, 5,207 kW) in those allocators, and no other changes would be necessary to those allocators.[17] TCGA's position on the allocation of underground distribution investment was not disputed at the hearing on the merits or in the briefing for this docket.

Similarly, the adjustment to the allocator for secondary lines investment would simply be to eliminate the Cotton Gins demand from the allocation of secondary distribution investment. SWEPCO's class allocators for secondary line investment are DEM364DAS and DEM365DAS.[18] The only required change to those allocators would be to zero out the demands for the Cotton Gin class (i.e., 5207 kW) in those allocators, and no other changes would be necessary to those allocators.[19] TCGA's position on the allocation of underground distribution investment was not disputed at the hearing on the merits or in the briefing for this docket either.

There is not a specific allocator for SWEPCO's vegetation management costs, but if the allocation for secondary facilities and underground facilities are corrected for the Cotton Gin class, it will greatly reduce the improper allocation of vegetation management expenses to the class as well.

---

[16] *See generally* SWEPCO Ex. 34A at 12, Schedule P-3, lns 14, 15, 18, & 19.
[17] *See generally* SWEPCO Ex. 34A at 37, Schedule P-7, lns 11, 12, 13, & 14.
[18] *See generally* SWEPCO Ex. 34A at 12, Schedule P-3, lns 7 & 11.
[19] *See generally* SWEPCO Ex. 34A at 37, Schedule P-7, lns 8 & 10.

TCGA respectfully requests that the PUC overrule the ALJs' recommendation to essentially "do nothing" regarding the Cotton Gin class. There are cost allocations and rate design proposals already in consideration for this docket that TCGA would support, provided, however, the cost allocation analysis adopted should not inequitably or unreasonably allocate costs to the Cotton Gin class that the class does not cause. As such, the TCGA requests that the two adjustments to Cotton Gin class be made as outlined above.

Exception to Rate Increase

The TCGA also takes exception to the number running calculations relative to the revenue increase distribution as shown on Schedule C to the PFD.[20] In these number running calculations, the 43.26% base rate increase cap was not reduced consistent with the percentage reduction in the base rate revenue increase as proposed in the PFD. TCGA respectfully requests that these calculations be adjusted and reduced accordingly prior to the approval of the base rate increase for the Cotton Gin class.

As stated in the PFD, TCGA's ultimate request is that the resulting rate increase for the Cotton Gin class in this docket "is no more than the lower of either the system average base rate increase or a rate increase no more than of 37.44%."[21] The ALJs properly deduced that this request was essentially a rate gradualism approach leaving TCGA with a rate increase less than 37.44%.[22] Because Schedule C in the number running schedules attached to PFD showed that the Cotton Gin class rate increase resulting from the ALJs' recommendations was 32.84%, the ALJs erroneously determined that this class rate increase was in the desirable range for the Cotton Gin class and

[20] PFD at Schedule C.
[21] PFD at 288; *see also* TCGA Reply Brief at 12-13; *see also* TCGA Initial Brief at 21.
[22] PFD at 288.

recommended approval by the PUC for this increase. However, upon closer inspection, in those number running calculations, the 43.26% base rate increase cap was not reduced in a manner consistent with the base rate increase ultimately proposed by the ALJs as compared to SWEPCO's originally requested base rate increase or SWEPCO's rebuttal base rate increase.

In SWEPCO's original filing, it requested a total Texas retail base rate revenue requirement of $534,165,103 and a base rate increase of $105,026,238.[23] This represents an increase of 30.31% over adjusted Texas retail test year base rate revenues exclusive of fuel and rider revenues.[24] In SWEPCO's rebuttal case, it proposed a Texas retail base rate revenue requirement of $529,371,963, reducing its base rate increase to $99,996,829.[25] While SWEPCO's rebuttal testimony did not indicate a percentage base rate increase in its rebuttal case, using a similar calculation as before, this represents an increase of 28.86% over adjusted Texas retail test year base rate revenues. Ultimately, the ALJs recommended a base rate increase of $56,173,905, or a 16.21% base rate increase in the PFD.[26]

TCGA's rate increase request for the lower of either the system average base rate increase or a rate increase of no more than of 37.44% was specifically tied to underlying revenue increase distribution designs for the corresponding requests.[27] Similarly, the 43.26% base rate cap was set at approximately 1.5 times the system average base rate increase from SWEPCO's rebuttal case.[28] The ALJs recommended SWEPCO's revenue distribution approach be used, but they did not recommend the base rate cap percentage be kept at the inflated level.

---

[23] PFD at 2; *see also* SWEPCO Ex. 31 (Aaron Dir.) at 24:16-26:17 & Table 1.
[24] *Id.*
[25] *Id.* at 3; *see also* SWEPCO Ex. 34 (Aaron Reb.) at 5:13-6:14 & Table 1; *see e.g.*, SWEPCO Ex. 34A at 8-9.
[26] PFD at Schedule C.
[27] *See* TCGA Initial Brief at 7, fn 6.
[28] PFD at 3; *see also* SWEPCO Ex. 34 (Aaron Reb.) at 5:13-6:14 & Table 1; *see e.g.*, SWEPCO Ex. 34A at 8-9.

Consequently, utilizing SWEPCO's revenue distribution approach and applying the 1.5 times the system average base rate increase cap for any class, the cap should have been adjusted to 24.32%, not 43.26%. As a result, the gross base rate increase for the Cotton Gin class would be reduced by at least $43,905, from $100,228 to $56,323 and the net increase would be reduced from $82,058 to $38,153 in the Schedule C number running calculations. This would result in in a rate increase for the Cotton Gin class of no more than 24.32%, ***not*** 32.84% as the ALJs recommended in Schedule C of the PFD. Additionally, should the correction to the allocators for secondary line investment and underground conduit be made to eliminate the demands for the Cotton Gin class, it would significantly reduce the increase necessary for the Cotton Gin class to produce the system average rate of return of 6.79%.

XV. A. Findings of Fact

TCGA reserves the right to propose findings of fact in its replies to exceptions or by the deadline established by the Commission.

XV. B. Conclusions of Law

TCGA reserves the right to propose conclusions of law in its replies to exceptions or by the deadline established by the Commission.

Conclusion

The ALJs were diligent in their review of the record. However, TCGA maintains that the ALJs erred by recommending that the PUC essentially "do nothing" regarding the unique situation of the Cotton Gin class. There are cost allocations and rate design proposals already in consideration for this docket that TCGA would support, provided, however, the cost allocation analysis adopted should not inequitably or unreasonably allocate costs to the Cotton Gin class that the class does not cause.

Consequently, TCGA requests that the allocation adjustments be made as outlined above. Once these costs are properly allocated, by using SWEPCO's revenue distribution approach and the proper [uninflated] base rate increase for the Cotton Gin class, the 1.5 times the system average base rate increase cap as requested by TCGA in its briefing should result in a maximum base rate increase of 24.32%, ***not*** 32.84%. TCGA respectfully requests that the PUC make the allocation adjustments, establish a maximum base rate increase at not more than 24.32% for the Cotton Gin class, and apply a base rate increase of the lesser of 24.32% to the Cotton Gin class or the amount of the base rate increase necessary for the Cotton Gin class to produce the system average rate of return of 6.79%.

Respectfully submitted,

BRADY & HAMILTON, LLP

Zachary S. Brady
State Bar No. 24012320
zach@bhlawgroup.com
Brent Hamilton
State Bar No. 00796696
brent@bhlawgroup.com
Laura A. W. Pratt
State Bar No. 24072287
laura@bhlawgroup.com
1602 13th Street
Lubbock, Texas 79401
Telephone: (806) 771-1850
Facsimile: (806) 771-3750

ATTORNEYS FOR INTERVENOR
TEXAS COTTON GINNERS' ASSOCIATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by email on all parties known of record who have provided an email address, on this the 7th day of October 2021, in accordance with the Commission's Second Order Suspending Rules issued on July 16, 2020, in Project No. 50664.

Zachary S. Brady